

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Juan Ramon Torres, *et al*,

Plaintiffs,

Civil Action No. 4:09-cv-2056

vs.

SGE Management, LLC, *et al*,

Defendants.

**CLASS AND ASSOCIATED COUNSELS' PARTIAL CONCURRENCE TO
SCOTT CLEARMAN'S MOTION FOR A STATUS CONFERENCE [DKT. 415]**

This Court has been assigned a long-standing fee-allocation dispute arising from a final settlement of a RICO class action that resulted in a \$10.275 million aggregate award of fees and expenses to Plaintiffs' counsel. The underlying settlement was not appealed by any party or objector and has been final since 2018. The fee allocation issue before this Court arises from Scott Clearman's dissatisfaction with the award given him by Judge Hoyt, who presided over the case for nine years. Following Scott Clearman's appeal and undersigned counsel's conditional cross-appeal, in which Mr. Clearman claimed he got too little and other counsel claimed he got too much money, Mr. Clearman requested a new judge. Judge Hoyt recused himself.

Co-Class Counsel Andrew Kochanowski and Matthew Prebeg, on their behalf and on behalf of their firms, and Associated Counsel Jeffrey R. Burnett and Eric Citron on

behalf of their firms, agree that the Court should have a status conference to efficiently manage the limited issue remaining after Judge Hoyt's recusal.

That said, the undersigned counsel disagree with Mr. Clearman's proposal to offer additional briefing and new evidence into the record for several reasons. For one, Mr. Clearman's suggestion of giving him a 5,000-word summary and forcing four other independent attorneys to share a 5,000-word summary is unfair. For another, the Fifth Circuit remanded this case only "for elaboration of the trial court's reasoning under the *Johnson* framework." *Torres v. SGE Mgmt., L.L.C.*, 945 F.3d 347, 349 (5th Cir. 2019); [Dkt. 415-2, at p. 3]. That does not require additional briefing or new evidence. It requires nothing more than for the Court to review the fee petitions counsel filed in 2018, allocate fees among counsel, and explain its allocation using the *Johnson* framework. The record as it stands consists of three tries by Mr. Clearman to file a timely and proper fee petition, two of which have been stricken. Judge Hoyt struck the most recent submission *after* he invited Mr. Clearman to file a request for recusal, having informed Mr. Clearman and his counsel that he intended to resolve such motions before recusing himself, and thereby present a clean record to the newly appointed judge for resolution.

Mr. Clearman has submitted voluminous and confused arguments and records already, and his fee petition from 2018 remains in the record. Counsel do not believe any procedure that allows Mr. Clearman any additional means to submit evidence could be congruent with the law of the case. Undersigned counsel file this partial concurrence only to alert the Court of their position.

Dated: March 11, 2020

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

As required by Judge Charles Eskridge Court Procedures Rule 18.c., I certify that the foregoing document contains 422 words, excluding the parts of the document that are exempted by Rule 18.c.

/s/ Andrew Kochanowski

CERTIFICATE OF SERVICE

I certify that a true and complete copy of the foregoing document has been served on all counsel of record on March 11, 2020, via the court's electronic-filing system.

/s/ Andrew Kochanowski

Andrew Kochanowski